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**THIS DISPOSITION
IS NOT CITABLE AS PRECEDENT
OF THE T.T.A.B.**

UNITED STATES PATENT AND TRADEMARK OFFICE

Trademark Trial and Appeal Board

In re Kenneth H. Allman II

Serial No. 75/762,517

Andrew B. Mayfield for Kenneth H. Allman II.

Jessie W. Billings, Trademark Examining Attorney, Law
Office 103 (Michael Hamilton, Managing Attorney).

Before Hanak, Hairston and Rogers, Administrative
Trademark Judges.

Opinion by Hanak, Administrative Trademark Judge.

Kenneth H. Allman II (applicant) seeks to register
in typed drawing form WEB-CV for "consulting services,
namely, providing information about employment
opportunities in the health care field by means of a web
site and electronic mail." The application was filed on
July 28, 1999 with a claimed first use date of March 30,
1999.

The Examining Attorney has refused registration on
the basis that applicant's mark, as applied to
applicant's services, is merely descriptive pursuant to
Section 2(e)(1) of the Trademark Act.

When the refusal to register was made final, applicant appealed to this Board. Applicant and the Examining Attorney filed briefs. Applicant did not request a hearing.

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A mark is merely descriptive pursuant to Section 2(e)(1) of the Trademark Act if it immediately conveys information about a significant quality or characteristic of the relevant goods or services. In re Gyulay, 820 F.2d 1216, 3 USPQ2d 1009 (Fed. Cir. 1987); In re Bed & Breakfast Registry, 791 F.2d 157, 229 USPQ 818, 819 (Fed. Cir. 1986).

The Examining Attorney argues that applicant's mark WEB-CV is merely descriptive of applicant's services in the following manner: "The term 'web' refers to the applicant's web site and the acronym CV means 'curriculum vitae' ... The mark WEB-CV describes the nature of applicant's services, which is to distribute CVs via the web." (Examining Attorney's brief page 2).

Applicant argues that the initialism CV has many meanings, and that the Examining Attorney has not established that users of applicant's services would understand the initialism CV to mean "curriculum vitae."

Obviously, applicant is not seeking to register WEB-CURRICULUM VITAE. If he were, then we would find this "mark" to be merely descriptive of applicant's services. Rather, applicant seeks to register WEB-CV. Thus, the issue before us is whether the initialism CV is generally

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understood as representing the descriptive words "curriculum vitae" so as to be substantially synonymous therewith. This test for determining whether an initialism is merely descriptive was established by the predecessor to our primary reviewing Court in Modern Optics, Inc. v. Univis Lens Co., 234 F. 2d 504, 110 USPQ 293 (CCPA 1956). This test is as follows:

It does not follow, however, that all initials of combinations of descriptive words are ipso facto unregistrable. While each case must be decided on the basis of the particular facts involved, it would seem that, as a general rule, initials cannot be considered descriptive unless they have become so generally understood as representing descriptive words as to be accepted as substantially synonymous therewith. 110 USPQ at 295 (emphasis added).

The Modern Optics rule for determining whether initials are merely descriptive has been favorably received by

other Courts of Appeal. See Anheuser-Busch, Inc. v. Stroh Brewery Co., 750 F.2d 631, 224 USPQ 657, 659 (8 Cir. 1984) ("We find the reasoning of Modern Optics persuasive."); G. Heileman Brewing Co. v. Anheuser-Busch Inc., 873 F.2d 985, 10 USPQ2d 1801, 1808 (7 Cir. 1989). Of course, this Board would be bound to follow the rule of Modern Optics regardless of its favorable reception by other Circuits.

In an effort to establish that the initialism CV is so

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generally understood as representing the words "curriculum vitae" so as to be substantially synonymous therewith, the Examining Attorney has made of record only two pieces of evidence. The first is a page from the Acronym Finder which shows that there are 23 definitions for the initialism CV, one of which is "curriculum vitae." The second piece of evidence is from the AND Concise Dictionary which is published in the United Kingdom. This foreign dictionary, in defining the word "curriculum," makes reference to the term "curricula vitae" and the abbreviation CV.

Based upon this extremely limited evidence, we find that the Examining Attorney has simply failed to establish that the initialism CV is so generally understood as meaning "curriculum vitae" so as to be substantially synonymous therewith. At the outset, we note that it is the policy of this Board to give very little, if any, evidentiary weight to foreign publications. The fact that the Examining Attorney apparently could find only a foreign dictionary to equate the initialism CV with the term "curricula vitae" (not "curriculum vitae") is quite telling. This panel has consulted over ten dictionaries published in the United States, and not one of these dictionaries defines the

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initialism CV (if it defines it at all) as meaning "curriculum vitae." Moreover, under the listing for "curriculum vitae," none of these ten dictionaries includes any reference to the initialism CV.

As for the Examining Attorney's reliance on the Acronym Finder, we simply note that this is a very comprehensive work in that it lists 23 different meanings for the initialism CV. These meanings are extremely

varied in nature as demonstrated by the following examples: calorific value, cargo variant, cash value, clandestine vulnerability, computer virus, multipurpose aircraft carrier and Republic of Cape Verde. Given the extremely in-depth nature of this Acronym Finder, the fact that an initialism appears in this work and is defined in numerous varied manners does not establish that purchasers of applicant's services would be familiar with any particular meaning of CV.

Finally, we note that the Examining Attorney has failed to make of record any newspaper or magazine articles where the initialism CV appears, let alone any article which uses CV to mean curriculum vitae. Examining Attorneys have easy access to the vast NEXIS data base, and this failure of proof is telling.

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We hasten to add that our decision that the Examining Attorney has failed to prove that the mark WEB-CV is merely descriptive of applicant's services is, of course, based upon this extremely limited evidentiary record. A different, more comprehensive record could well have resulted in a different result. Finally, we

note that it is the practice of this Board in determining whether a mark is merely descriptive to resolve doubts in favor of the applicant. In re Gourmet Bakers, Inc., 173 USPQ 565 (TTAB 1972).

Decision: The refusal to register is reversed.

